

IMPERIAL COUNTY ASSESSMENT PRACTICES SURVEY

AUGUST 2011

CALIFORNIA STATE BOARD OF EQUALIZATION

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August 9, 2011

TO COUNTY ASSESSORS:

No. 2011/028

IMPERIAL COUNTY
ASSESSMENT PRACTICES SURVEY

A copy of the Imperial County Assessment Practices Survey Report is enclosed for your information. The Board of Equalization (BOE) completed this survey in fulfillment of the provisions of sections 15640-15646 of the Government Code. These code sections provide that the BOE shall make surveys in each county and city and county to determine that the practices and procedures used by the county assessor in the valuation of properties are in conformity with all provisions of law.

The Honorable Roy D. Buckner, Imperial County Assessor, was provided a draft of this report and given an opportunity to file a written response to the findings and recommendations contained therein. The report, including the assessor's response, constitutes the final survey report, which is distributed to the Governor, the Attorney General, and the State Legislature; and to the Imperial County Board of Supervisors, Grand Jury, and Assessment Appeals Board.

Fieldwork for this survey was performed by the BOE's County-Assessed Properties Division from January through February 2010. The report does not reflect changes implemented by the assessor after the fieldwork was completed.

Mr. Buckner and his staff gave their complete cooperation during the survey. We gratefully acknowledge their patience and courtesy during the interruption of their normal work routine.

These survey reports give government officials in California charged with property tax administration the opportunity to exchange ideas for the mutual benefit of all participants and stakeholders. We encourage you to share with us your questions, comments, and suggestions for improvement.

Sincerely,

/s/ David J. Gau

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG:dcl
Enclosure

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INTRODUCTION

Although county government has the primary responsibility for local property tax assessment, the State has both a public policy interest and a financial interest in promoting fair and equitable assessments throughout California. The public policy interest arises from the impact of property taxes on taxpayers and the inherently subjective nature of the assessment process. The financial interest derives from state law that annually guarantees California schools a minimum amount of funding; to the extent that property tax revenues fall short of providing this minimum amount of funding, the State must make up the difference from the general fund.

The assessment practices survey program is one of the State's major efforts to address these interests and to promote uniformity, fairness, equity, and integrity in the property tax assessment process. Under this program, the State Board of Equalization (BOE) periodically reviews the practices and procedures (surveys) of every county assessor's office. This report reflects the BOE's findings in its current survey of the Imperial County Assessor's Office.

The assessor is required to file with the board of supervisors a response that states the manner in which the assessor has implemented, intends to implement, or the reasons for not implementing the recommendations contained in this report. Copies of the response are to be sent to the Governor, the Attorney General, the BOE, and the Senate and Assembly; and to the Imperial County Board of Supervisors, Grand Jury, and Assessment Appeals Board. That response is to be filed within one year of the date the report is issued and annually thereafter until all issues are resolved. The Honorable Roy D. Buckner, Imperial County Assessor, elected to file his initial response prior to the publication of our survey; it is included in this report following the Appendixes.

While typical management audit reports emphasize problem areas, they say little about operations that are performed correctly. Assessment practices survey reports also tend to emphasize problem areas, but they also contain information required by law (see *Scope of Assessment Practices Surveys* at page 2) and information that may be useful to other assessors. The latter information is provided in the hope that the report will promote uniform, effective, and efficient assessment practices throughout California.

SCOPE OF ASSESSMENT PRACTICES SURVEYS

Government Code sections 15640 and 15642 define the scope of an assessment practices survey. As directed by those statutes, our survey addresses the adequacy of the procedures and practices employed by the assessor in the valuation of property, the volume of assessing work as measured by property type, and the performance of other duties enjoined upon the assessor.

In addition, pursuant to Revenue and Taxation Code¹ section 75.60, the BOE determines through the survey program whether a county assessment roll meets the standards for purposes of certifying the eligibility of the county to continue to recover costs associated with administering supplemental assessments. Such certification is obtained either by satisfactory statistical result from a sampling of the county's assessment roll, or by a determination by the survey team—based on objective standards defined in regulation—that there are no significant assessment problems in the county. The statutory and regulatory requirements pertaining to the assessment practices survey program are detailed in Appendix B.

Our survey of the Imperial County Assessor's Office included reviews of the assessor's records, interviews with the assessor and his staff, and contacts with officials in other public agencies in Imperial County who provided information relevant to the property tax assessment program.

Since this survey did not include an assessment sample pursuant to Government Code section 15640(c), our review included an examination to determine whether "significant assessment problems" exist, as defined by Rule 371.²

This report offers recommendations to help the assessor correct assessment problems identified by the survey team. The survey team makes recommendations when assessment practices in a given area are not in accordance with property tax law or generally accepted appraisal practices. An assessment practices survey is not a comprehensive audit of the assessor's entire operation. The survey team does not examine internal fiscal controls or the internal management of an assessor's office outside those areas related to assessment. In terms of current auditing practices, an assessment practices survey resembles a compliance audit—the survey team's primary objective is to determine whether assessments are being made in accordance with property tax law.

¹ Unless otherwise stated, all statutory references are to the California Revenue and Taxation Code.

² All rule references are to sections of California Code of Regulations, Title 18, Public Revenues.

EXECUTIVE SUMMARY

As stated in the Introduction, this report emphasizes problem areas we found in the operations of the assessor's office. However, it also identifies program elements that we found particularly effective and describes areas of improvement since our last assessment practices survey.

The assessor has improved the overall operation of the office. The following are examples of the improvements the assessor has made since our last survey:

- Improved customer service by being proactive in educating the public about property tax issues and available tax relief programs, as well as providing bilingual customer service to the public;
- Implemented a geographic information system, increasing the assessor's ability to discover new construction, new farm land, and taxable possessory interests;
- Entered into a computer assessment system with the auditor and the tax collector, improving communication with those offices and increasing efficiency;
- Acquired a scanning and storage system, making record storage and retrieval easier and more accurate; and
- Purchased electronic drawing software, making drawings more accurate and visually superior, and allowing for electronic storage and retrieval.

In the area of administration, the assessor is effectively managing portions of the office's administrative functions, including workload, staffing, appraiser certification, and staff property and activities. Areas of administration that need improvement are assessment appeals, exemptions, and assessment forms.

In the area of real property assessment, the assessor has effective programs for assessing new construction, California Land Conservation Act (CLCA) property, and water company property. We made recommendations in the areas of change in ownership, declines in value, taxable possessory interests, leasehold improvements, and mineral property.

The assessor has effective programs for conducting audits, processing business property statements, and valuing business equipment. However, we found an area of concern in the valuation of manufactured homes.

Despite the recommendations noted in this report, we found that most properties and property types are assessed correctly.

We found no significant assessment problems as defined in Rule 371. Accordingly, pursuant to section 75.60, Imperial County continues to be eligible for recovery of costs associated with administering supplemental assessments. Since Imperial County was not selected for assessment sampling pursuant to Government Code section 15643(b), this report does not include the assessment ratios that are generated for surveys that include assessment sampling.

Following is a list of the formal recommendations contained in this report, arrayed in the order that they appear in the text.

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RECOMMENDATION 2:	Apply the correct penalties for late-filed welfare exemption claims.	14
RECOMMENDATION 3:	Improve the use of assessment forms by using the most recent property tax forms.	16
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RECOMMENDATION 6:	Improve the taxable possessory interest assessment program by: (1) obtaining copies of all lease agreements that create taxable possessory interests, (2) periodically reviewing all taxable possessory interests with stated terms of possession for declines in value, and (3) capitalizing net income to the lessor when valuing taxable possessory interests by the income approach.....	29
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OVERVIEW OF IMPERIAL COUNTY

Imperial County was formed in 1907 from the eastern half of San Diego County. The county took its name from the Imperial Valley, itself named for the Imperial Land Company, a subsidiary of the California Development Company, which had reclaimed the southern portion of the Colorado Desert for agriculture. The county encompasses over 4,597 square miles. Imperial County is bounded on the north by Riverside County, to the west by San Diego County, to the east by the state of Arizona, and to the south by the country of Mexico. The county seat is the city of El Centro. Imperial County has seven incorporated cities: Brawley, Calexico, Calipatria, El Centro, Holtville, Imperial, and Westmorland. As of April 2008, Imperial County had a population of 163,972.

The following table displays information pertinent to the 2009-10 assessment roll:

	PROPERTY TYPE	ENROLLED VALUE
Secured Roll	Land	\$3,867,261,032
	Improvements and Fixtures	\$5,993,412,801
	Personal Property	\$273,009,207
	Gross Secured Roll	\$10,133,683,040
	Less Exemptions	\$328,681,984
	Net Secured Roll	\$9,805,001,056
Unsecured Roll	Land	\$25,295,246
	Improvements and Fixtures	\$120,210,919
	Personal Property	\$686,287,287
	Gross Unsecured Roll	\$831,793,452
	Less Exemptions	\$3,333,608
	Net Unsecured Roll	\$828,459,844
	Total Assessment Roll	\$10,633,460,900

The next table sets forth the change in assessed values over recent years:³

ROLL YEAR	TOTAL ROLL VALUE	CHANGE	STATEWIDE CHANGE
2009-10	\$10,633,461,000	-2.7%	-2.4%
2008-09	\$10,930,051,000	8.4%	4.7%
2007-08	\$10,079,234,000	19.5%	9.6%
2006-07	\$8,432,252,000	9.3%	12.3%
2005-06	\$7,712,486,000	8.0%	11.1%

³ State Board of Equalization Annual Report, Table 7.

ADMINISTRATION

This section of the survey report focuses on administrative policies and procedures of the assessor's office that affect both the real property and business property assessment programs. Subjects addressed include the assessor's budget and staffing, workload, appraiser certification, staff property procedures, assessment appeals, exemptions, and assessment forms.

Budget and Staffing

The following table shows the assessor's budget levels over recent years:

BUDGET YEAR	GROSS BUDGET	PERCENT CHANGE	PERMANENT STAFF
2009-10	\$2,372,613	-2.8%	32
2008-09	\$2,442,018	15.0%	32
2007-08	\$2,122,392	6.3%	30
2006-07	\$1,996,100	14.4%	30
2005-06	\$1,745,181	--	29

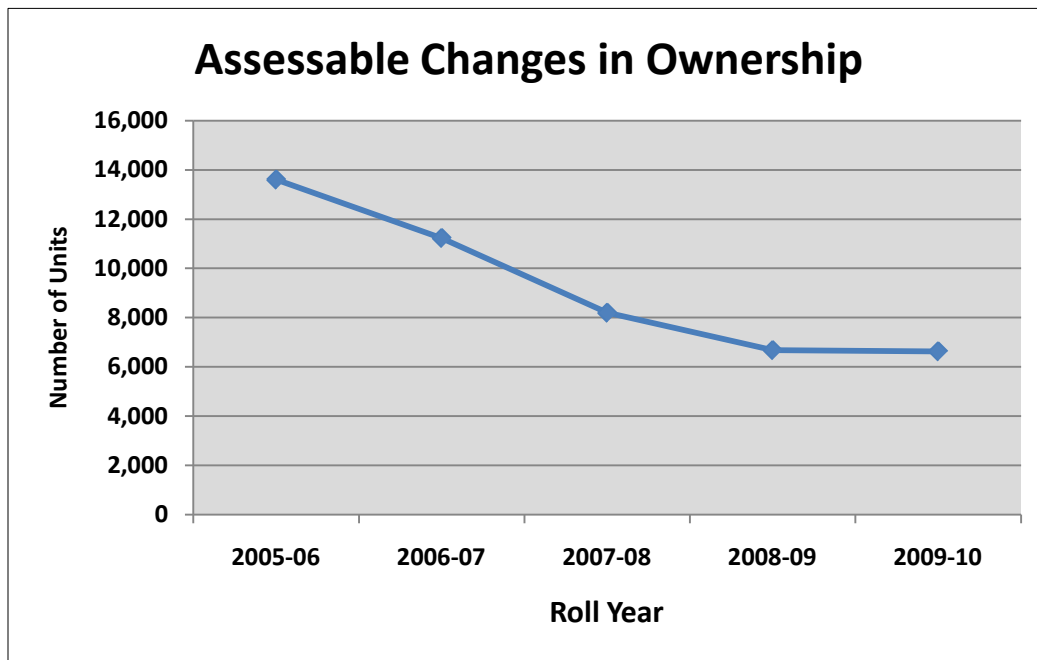
The assessor has 32 budgeted positions. This includes 16 real property appraisers (including the assessor and the assistant assessor), 3 auditor-appraisers, 2 mapping staff, 1 computer analyst, and 10 support staff.

Workload

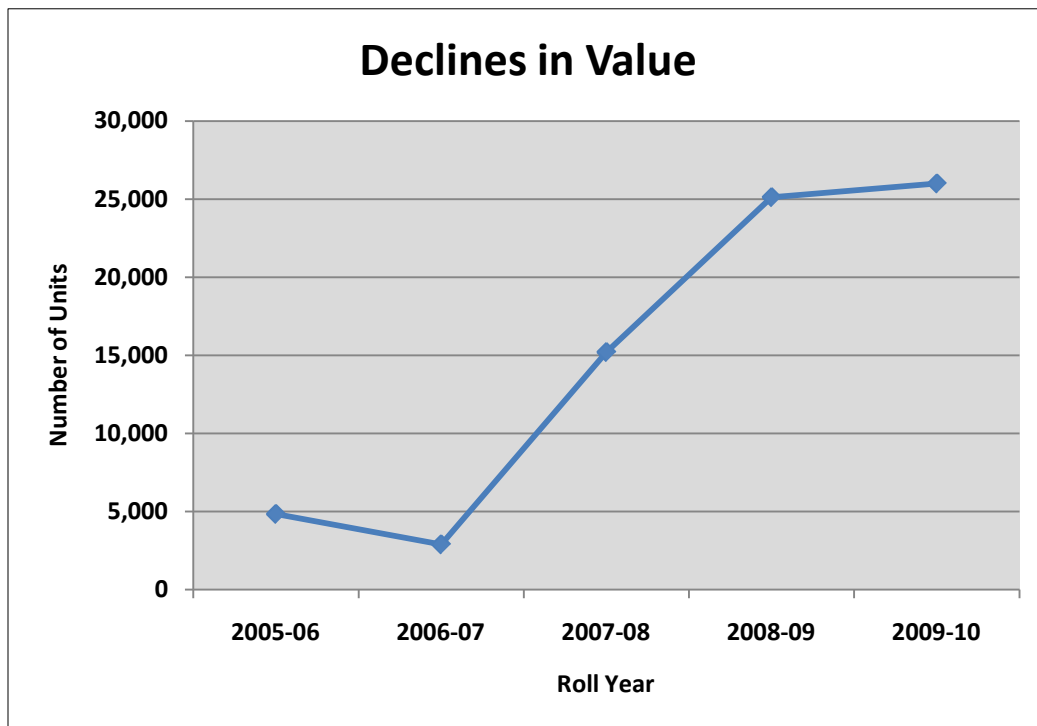
Generally, the assessor is responsible for annually determining the assessed value of all real property and business personal property (including machinery and equipment) in the county. In order to accomplish this task, the assessor reviews recorded documents and building permits to discover reappraisable property. In addition, the assessor will identify and value all business personal property (including machinery and equipment), process and apply tax exemption claims for property owned by qualifying religious and welfare organizations, and prepare assessment appeals for hearing before the local board of equalization.

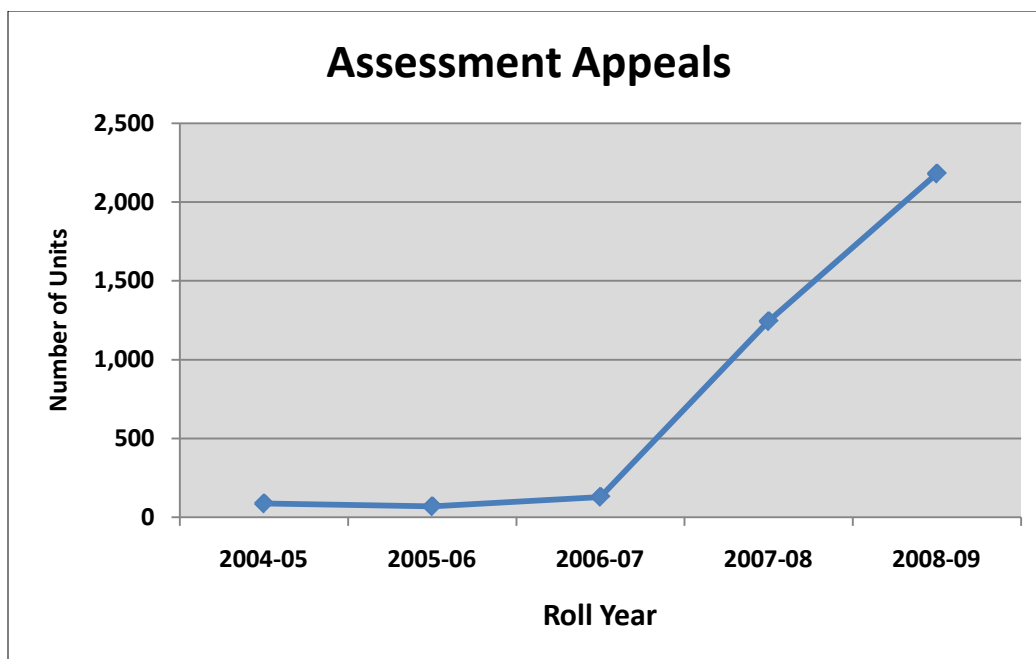
In addition, for most real property the assessor is required to annually enroll the lower of the current market value or the factored base year value. Therefore, when any factor causes a decline in the market value of real property, the assessor must review the assessment of the property to determine whether the decline has impacted the taxable value of the property for that year. In certain economic times, this decline may greatly impact the workload of the assessor. Additionally, the number of assessment appeals may increase during this period.

While the total roll value and the gross budget have increased four out of the past five years, there has been a decline in the number of assessable changes in ownership over the same period. The following chart illustrates these changes:



The decrease in workload for assessable changes in ownership was replaced by significant workload increases in the areas of declines in value and assessment appeals. The following charts illustrate these changes:





Appraiser Certification

Section 670 provides that no person shall perform the duties of an appraiser for property tax purposes unless they hold a valid appraiser's certificate issued by the BOE. There are a total of 19 certified appraisers on staff, including the assessor; 10 hold advanced appraiser's certificates. We found that the assessor and his staff possess the required appraiser's certificates. Additionally, we found that the auditor-appraisers performing audits meet the requirements referenced in section 670(d). The assessor does not use contract appraisers.

In Imperial County, the assistant assessor oversees the training and certification program for appraisers. Although appraisers are encouraged to take the necessary courses to obtain their advanced certificate, Imperial County does not offer any financial incentive for advanced certification. We have no recommendations for the appraiser certification program.

Staff Property and Activities

The BOE's assessment practices survey includes a review of the assessor's internal controls and safeguards as they apply to staff-owned properties and conflicts of interest. This review is done to ensure there are adequate and effective controls in place to prevent the assessor's staff from being involved in the assessment of property in which they have an ownership interest and to prevent conflicts of interest.

The assessor becomes aware of employee-owned property through name recognition when a recorded deed is received in the office, through self-declaration by the employee acquiring the property, and from the annual filing of the California Fair Political Practices Commission Form 700, *Statement of Economic Interests*, which requests information regarding employee ownership in any real property, other than their primary residence, as well as ownership interest in any business entity.

The assessor's policy for appraising a staff-owned property or business is that no staff values their own property. When an appraisal is required, the assignment is given to a supervising appraiser to value. If a supervising appraiser's property is being reassessed, that property is valued by another supervising appraiser or an appraiser assigned to that geographic area. Upon completion of the appraisal, it is forwarded to the assistant assessor and then to the assessor for review and approval. If the property to be appraised is owned by the assistant assessor or the assessor, then a supervising appraiser will perform the appraisal. The assistant assessor's completed appraisal is reviewed by the assessor and the assessor's completed appraisal is reviewed by the assistant assessor. This process ensures no personal involvement by staff members in the assessment of property in which they have an interest.

We reviewed a number of staff-owned properties and found no problems.

Assessment Appeals

The assessment appeals function is prescribed by article XIII, section 16 of the California Constitution. Sections 1601 through 1641.5 are the statutory provisions governing the conduct and procedures of assessment appeals boards and the manner of their creation. As authorized by Government Code section 15606, the Board has adopted Rules 301 through 326 to regulate the assessment appeals process.

Pursuant to section 1601, the body charged with the equalization function for the county is the appeals board, which is either the county board of supervisors meeting as a county board of equalization or an appointed assessment appeals board. Appeal applications must be filed with the clerk of the board (clerk). The regular time period for filing an appeal application, as set forth in section 1603, is July 2 to September 15; however, if the assessor does not provide notice to all taxpayers of real property on the local secured roll of the assessed value of their real property by August 1, then the last day of the filing period is extended to November 30. Section 1604(c) and Rule 309 provide that the appeals board must make a final determination on an appeal application within two years of the timely filed appeal application unless the taxpayer and appeals board mutually agree to an extension of time or the application is consolidated for hearing with another application for reduction by the same taxpayer.

Imperial County Ordinance No. 1452 provides for the creation of two assessment appeals boards. Each appeals board consists of three regular members and one alternate member. All regular and alternate members appointed to both appeals boards are deemed concurrently appointed as assessment hearing officers. As required by section 1603(b)(3)(A), the assessor notifies the clerk and the tax collector by April 1 of each year as to whether notices of assessed value of real property on the secured roll will be sent to taxpayers by August 1. Because the assessor does not send notices by August 1, the filing period for appeals is extended to November 30.

In Imperial County, assessment appeal applications are filed with the clerk of the board. The clerk reviews applications for completeness and timeliness before forwarding a copy of the application to the assessor's office. The assistant assessor reviews each appeal application and any supporting documentation, along with the data used to support the assessor's appraisal. After the review, the assistant assessor contacts the applicant by telephone and explains why the assessor agrees or disagrees with the applicant's opinion of value.

If the applicant decides to withdraw the appeal, the assistant assessor sends a letter with a withdrawal form to be signed by the applicant and returned to the clerk of the board. If the applicant agrees to a reduced value, the assistant assessor sends a letter to the applicant with the stipulation for the applicant to review and sign before returning to the assessor's office. All stipulated values are presented to the appeals board for approval. If the applicant and the assessor cannot reach an agreement, the clerk schedules the appeal for hearing.

The following table summarizes the assessment appeals workload for recent years:

ASSESSMENT ROLL	2008-09	2007-08	2006-07	2005-06	2004-05
Appeals Filed	949	1,120	89	48	47
Appeals Carried Over From Prior Year	1,232	124	40	21	40
Total Appeals Workload	2,181	1,244	129	69	87
Resolution:					
Withdrawn	163	2	3	28	52
Stipulation	445	4	1	1	2
Appeals Reduced	10	0	0	0	2
Appeals Upheld	0	0	0	0	7
Appeals Increased	0	0	0	0	0
Other Determination*	70	6	1	0	3
Total Resolved	688	12	5	29	66
To Be Carried Over**	1,493	1,232	124	40	21

* Note: Includes, but not limited to late-filed appeals, applicants' failure to appear and board denied applications.

**Note: "To Be Carried Over" includes appeals with time extensions by mutual agreement of the parties.

The number of assessment appeals filed for the 2007-08 roll year increased significantly from the previous roll year. The majority of the appeals filed for 2007-08 and 2008-09 roll years were decline-in-value appeals. No appeals have been filed involving the question of exemptions.

The assistant assessor, supervisors, and the clerk of the board track the progress of the assessment appeals in an effort to resolve all appeals. Typically, a supervising appraiser prepares an appeal packet for each hearing. The assistant assessor and the supervising appraisers present the data in support of the assessment to the appeals board. We reviewed copies of appeal packets prepared and presented by the assistant assessor and supervising appraisers from prior hearings; the packets were well organized. During our review of the assessment appeals program, we found one area in need of improvement.

RECOMMENDATION 1: Resolve assessment appeals within the two-year time period.

For assessment appeals that are in danger of extending past the two-year time limit, the assessor obtains extensions only if he disagrees with the applicant's opinion of value. Where the assessor

agrees with the applicant's opinion of value, he simply allows that value to be enrolled by default rather than taking steps to resolve the appeal timely.

Rule 309(b) states that a hearing must be held and a final determination made on the application within two years of the timely filing of an application for reduction in assessment, unless the applicant or the applicant's agent and the board mutually agree in writing or on the record to an extension of time. Section 1604(c) provides that the applicant's opinion of value as reflected on the application shall be enrolled if the board fails to hear evidence and fails to make a final determination on the application for reduction in assessment within two years of the timely filing of the application.

Although the assessor is correctly enrolling the applicant's opinion of value in accordance with section 1604(c) when the appeal is not heard within the two-year time period, the assessor is denying the applicant the right to be heard before the appeals board and the right to have their appeal timely resolved.

Exemptions

Church and Religious Exemptions

Article XIII, section 3(f) of the California Constitution authorizes exemption of property used exclusively for religious worship. This constitutional provision, implemented by section 206, exempts buildings, the land on which they are situated, and equipment used exclusively for religious worship when such property is owned or leased by a church. Property that is reasonably and necessarily required for church parking is also exempt under article XIII, section 4(d) of the California Constitution, provided that the property is not used for commercial purposes. The church parking exemption is available for owned or leased property meeting the requirements of section 206.1. The Legislature has also implemented the religious exemption in section 207, which exempts property owned by a church and used exclusively for religious worship or for both religious worship and school purposes (excluding property used solely for schools of collegiate grade).

County assessors administer the church and religious exemptions. The church exemption, including the church parking exemption, requires an annual filing of the exemption claim. The religious exemption requires a one-time filing by the claimant, although the assessor annually mails a form to claimants to confirm continuing eligibility for the exemption. Once granted, the religious exemption remains in effect until terminated or until the property is no longer eligible for the exemption.

The assessor processed 14 church exemption claims and 255 religious exemption claims for the 2009-10 assessment roll. The following table summarizes religious and church exemption data for recent years:

ROLL YEAR	RELIGIOUS EXEMPTIONS	EXEMPTED VALUE	CHURCH EXEMPTIONS	EXEMPTED VALUE
2009-10	255	\$69,113,172	14	\$3,513,716
2008-09	255	\$67,406,496	11	\$2,590,290
2007-08	254	\$63,829,087	10	\$1,674,607
2006-07	253	\$62,585,250	8	\$1,333,034
2005-06	252	\$57,425,154	8	\$674,089

The assessor's exemption staff consists of one person, the office supervisor. She processes all of the exemption claims, including church, religious, welfare, and disabled veterans' exemption claims.

The assessor refers to Assessors' Handbook Section 267, *Welfare, Church, and Religious Exemptions* (AH 267), Publication 149, *Property Tax Welfare Exemption*, and other advisory information from the BOE. Field inspections of properties for which the church or religious exemption are claimed are performed as required or when necessary.

For religious exemptions, the assessor sends BOE-267-SNT, *Religious Exemption Change in Eligibility or Termination Notice*, and verifies that all claimants have returned the forms to his office. We found no problems with the assessor's administration of the religious exemption.

As required by section 255, claimants for the church exemption are required to file an annual claim. As with the religious exemption program, we found the assessor's church exemption program to be well documented and properly administered.

Welfare Exemption

Article XIII, section 4(b) of the California Constitution authorizes the Legislature to exempt property owned and used exclusively for religious, hospital, or charitable purposes by organizations formed and operated exclusively for those purposes. When the Legislature enacted section 214 to implement this constitutional provision, a fourth purpose (scientific) was added. Both the organizational and property use requirements must be met for the exemption to be granted.

The welfare exemption is co-administered by the BOE and county assessors. The BOE is responsible for determining whether an organization itself is eligible for the welfare exemption and for issuing either *Organizational Clearance Certificates* (OCCs) to qualified organizations or *Supplemental Clearance Certificates* (SCCs) to limited partnerships, which have a qualified organization as the managing general partner, that own and operate low-income housing. The assessor is responsible for determining whether the use of a qualifying organization's property is eligible for exemption and for approving or denying exemption claims.

The assessor may not grant a welfare exemption on an organization's property unless the organization holds a valid OCC issued by the BOE or a valid SCC issued by the BOE if the property is a low-income housing property owned and operated by a limited partnership, which has a qualified organization (OCC holder) as the managing general partner. The assessor may, however, deny an exemption claim, based on non-qualifying use of the property, notwithstanding that the BOE has issued an OCC or SCC to the claimant.

The assessor processed 181 welfare exemption claims for the 2009-10 assessment roll. The following table summarizes welfare exemption data for recent years:

ROLL YEAR	WELFARE EXEMPTION	EXEMPTED VALUE
2009-10	181	\$252,561,868
2008-09	150	\$199,101,828
2007-08	133	\$147,550,508
2006-07	162	\$138,856,774
2005-06	168	\$122,827,290

During the review of welfare exemption claims, the assessor ensures each organization holds a valid OCC issued by the BOE. Additionally, the assessor is diligent in performing on-site inspections of properties seeking exemption for the first time. Furthermore, the assessor confirms all other requirements have been met before a welfare exemption is allowed on any property.

Several welfare exemption claims were reviewed during the survey; these included, but were not limited to, claims for low-income and senior housing. We found one area where improvement is needed in this program.

RECOMMENDATION 2: Apply the correct penalties for late-filed welfare exemption claims.

We found several properties where the assessor did not apply penalties for late-filed welfare exemption claims.

Section 255(a) provides that annual claims for the welfare exemption must be filed with the assessor between January 1 and 5 p.m. on February 15. Section 270 states that 90 percent of any tax, penalty, or interest will be cancelled or refunded if the claim is filed on or before January 1 of the next calendar year. If a claim is filed with the assessor after January 1 of the next calendar year, then 85 percent of any tax, penalty, or interest shall be cancelled or refunded. However, section 270(b) provides that the total amount of tax, penalty, and interest may not exceed \$250.

Section 271(a) provides that a welfare exemption claim filed on property acquired after the lien date is considered filed timely if filed within 90 days from the first day of the month following the month in which the property was acquired or by February 15 of the following calendar year, whichever occurs earlier. If the claimant does not file the application within the prescribed time period, but files an exemption claim later, then 85 percent of any tax, penalty, or interest is cancelled or refunded. Also, the combined tax, penalty, or interest imposed may not exceed \$250.

By not applying penalties for late filings on welfare exemption claims, the assessor is not in compliance with statutory requirements.

Disabled Veterans' Exemption

The disabled veterans' exemption is authorized by article XIII, section 4(a) of the California Constitution. This constitutional provision, implemented by section 205.5, exempts a specified amount of the value of a dwelling when occupied as a principal place of residence by a qualified disabled veteran (or the veteran's unmarried surviving spouse). The property must be owned by the veteran, the veteran's spouse, or the veteran and the veteran's spouse jointly. The amount of exemption is \$100,000 or, for qualifying low-income veterans, \$150,000. Both of these amounts are adjusted annually by a cost of living index.

The disabled veterans' exemption at the \$100,000 basis requires a one-time filing, while the low-income exemption at the \$150,000 level requires annual filings to ensure the claimant continues to meet the household low-income restriction.

The assessor processed 71 disabled veterans' exemption claims for the 2009-10 assessment roll. The following table summarizes disabled veterans' exemption data for recent years:

ROLL YEAR	DISABLED VETERANS' EXEMPTIONS	EXEMPTED VALUE
2009-10	71	\$6,826,836
2008-09	73	\$7,214,446
2007-08	71	\$5,943,968
2006-07	58	\$5,337,735
2005-06	56	\$4,645,948

The assessor strictly follows statutory guidelines in the administration of the disabled veterans' exemption. Several new disabled veterans' claims were reviewed during the survey. These claims were processed within statutory guidelines.

Assessment Forms

Government Code section 15606 requires the BOE to prescribe and enforce the use of all forms for the assessment of property for taxation.⁴ Generally, the assessor may not change, add to, or delete the specific wording in a prescribed form. The assessor may, however, rearrange information on a form provided that the assessor submits such form to the BOE for review and approval. Assessors may also use locally developed forms to assist them in their assessment duties. However, such forms may not be used as substitutes for Board-prescribed forms, and no penalty may be imposed upon a property owner for failure to file a locally developed form or questionnaire.

⁴ Also sections 480(c), 480.2(b), 480.4, and Rules 101 and 171.

To enforce the use of prescribed forms, the BOE annually requires assessors to specify in writing the forms they will use in the succeeding assessment year. Assessors are also required to submit to the BOE copies of the final prints of all prescribed forms they intend to use.

Our review noted one area where improvement can be made regarding assessment forms.

RECOMMENDATION 3: Improve the use of assessment forms by using the most recent property tax forms.

The assessor does not utilize current property tax forms. A review of all property tax forms used by the assessor revealed four forms that are out of date. To ensure changes in the law are implemented timely and uniformly across the state, assessors are required to adopt and use Board-issued prototype forms pursuant to Government Code section 15606(d). The assessor should follow the forms approval process guidelines released annually and adopt the current form revisions as they are released. Using outdated versions of forms could create confusion about current procedures and filing requirements.

ASSESSMENT OF REAL PROPERTY

The assessor's program for assessing real property includes the following principal elements:

- Revaluation of properties that have changed ownership.
- Valuation of new construction.
- Annual review of properties that have experienced declines in value.
- Annual revaluations of certain properties subject to special assessment procedures.

Article XIII A of the California Constitution provides that, absent post-1975 new construction or changes in ownership, the taxable value of real property shall not exceed its 1975 full cash value, except that it can be adjusted annually for inflation by a factor not to exceed 2 percent.

Change in Ownership

Section 60 defines change in ownership as a transfer of a present interest in real property, including the beneficial use thereof, the value of which is substantially equal to the value of the fee simple interest. Sections 61 through 69.5 further clarify what is considered a change in ownership and what is excluded from the definition of change in ownership for property tax purposes. Section 50 requires the assessor to establish a base year value for real property upon a change in ownership; a property's base year value is its fair market value on the date of change in ownership.

County-Specific Programs

The Imperial County Assessor and his staff pride themselves on educating the public about property tax issues and advising them of available tax relief programs. Representatives from the assessor's office meet with local title companies and attorneys to discuss property tax issues and answer questions as part of an ongoing community outreach effort. The assessor and his staff also provide bilingual customer service to build a positive relationship with the public. In April 2008, a member of the assessor's staff received an award from the El Centro Chamber of Commerce and Visitors Bureau for outstanding customer service. We commend the assessor for creating successful programs and for being proactive in public awareness.

Document Processing

The assessor maintains detailed policies and procedures for processing changes in ownership. The assessor has also created county forms for dealing with changes in ownership.

A slowing real estate market is reflected in a decline in the number of property transfers each year. The following table shows the total number of reappraisable transfers in Imperial County in recent years:

ROLL YEAR	REAPPRAISABLE TRANSFERS
2009-10	6,633
2008-09	6,681
2007-08	8,200
2006-07	11,234
2005-06	13,606

The assessor's primary source of discovering properties that have changed ownership is through the analysis of deeds and other recorded documents. The recorder requires BOE-502-A, *Preliminary Change of Ownership Report* (PCOR), to accompany documents submitted for recordation that evidence a transfer of real property. If a transfer document is received without a PCOR, the recorder applies a \$20 charge to the recording fee. Copies of blank PCORs are available at both the assessor's and recorder's offices, as well as in a downloadable format on the county's website. To facilitate accurate property identification, Imperial County Ordinance No. 858 requires that the assessor's parcel number (APN) be indicated on all deeds.

The recorder codes all recorded documents, notes the APN, and electronically transfers the document imagery to the assessor on a daily basis. The assessor also receives with the daily recordings from the recorder's office the original PCORs from the recorder's office, as well as the *Assessor's Document List*, which is a report that lists different types of documents with numeral codes, extracting only needed documents for the assessor in order to maintain the property tax roll.

The assessor has two title examiners who analyze the recorded documents to determine the percentage of ownership transferred and the percentage, if any, subject to reappraisal due to a change in ownership. The documents are then routed to the senior title examiner for review and quality control. Reappraisable events are entered into a computer database that can be accessed by real property appraisers and division supervisors. A division supervisor generates an appraisal worksheet for each reappraisable event and sends it to an appraiser for valuation purposes.

Penalties

When a recorded document is received without a PCOR, a title examiner mails BOE-502-AH, *Change in Ownership Statement* (COS), to the property owner with a cover letter. If the recorded document is received with an incomplete PCOR, the PCOR is rejected and mailed back to the property owner along with a cover letter requesting the missing information. If the property owner does not respond to this request, the title examiner will then send a COS. Once a COS is sent to the property owner, if it is not returned within 45 days, a second COS is sent out by certified mail with a cover letter and a copy of the deed. The certified mailings are tracked through a computer database and a hard-copy batch log. If the second COS is not returned within the 45-day period noted on the batch log, it is processed with a late-filing penalty. Additionally,

on the same day that the penalty is applied, a letter is mailed to the taxpayer advising them that the penalty was applied pursuant to section 482. The appeals board cannot automatically abate a penalty; the property owner has to file an appeal.

RECOMMENDATION 4: Improve the change in ownership program by: (1) timely applying the penalty for failure to file the COS required by section 482(a), and (2) removing penalty language from the standard cover letter sent to taxpayers who have filed incomplete PCORs.

Timely apply the penalty for failure to file the COS required by section 482(a).

The assessor is not properly applying the penalty as provided in section 482(a). The assessor applies the penalty for failure to file a COS after 90 days rather than the 45 days as provided in section 482(a).

Section 480 provides that transferees shall file a COS with the recorder or assessor in the county where the subject property is located. Section 482(a) further provides that if, upon written request from the assessor, a required party fails to file the COS within 45 days, a specific penalty shall be applied. Thus, if a transferee fails to file a COS within 45 days of a written request by the assessor, the assessor must apply the section 482(a) penalty.

The assessor's practice of allowing an additional 45 days to return a COS is contrary to the specific statutory provisions of section 482(a).

Remove penalty language from the standard cover letter sent to taxpayers who have filed incomplete PCORs.

The assessor's standard cover letter requesting additional information from a taxpayer who has filed an incomplete PCOR includes language that implies the taxpayer will have to pay a penalty if a completed PCOR is not submitted timely. Specifically, the cover letter tells the taxpayer to "...read the **"IMPORTANT NOTICE"** on the Preliminary Change in Ownership Report...;" however, the PCOR does not contain such a notice. Also, the cover letter goes on to state that **"The Penalty may also be applied if after a request the transferee (Buyer) files an incomplete statement and does not supply the missing information upon a second request."** This statement is not found on the PCOR and is in reference to section 482(a) for failure to file a COS as described in section 480.

Pursuant to section 480(a), a signed COS is required whenever a change in ownership of real property occurs. Section 482(a) allows for the application of a penalty if a COS required in section 480 is not filed within 45 days. However, the Revenue and Taxation Code does not provide language allowing an assessor to apply a penalty for the failure to respond to a request to complete a PCOR.

Although the "second request" the assessor refers to in the standard cover letter is a request for a COS, which does allow the assessor to apply a penalty, using penalty language in a cover letter

regarding missing information from a PCOR may lead a taxpayer to believe the penalty may also be applied for not supplying the missing information from the PCOR.

Transfer Lists

Pursuant to section 408.1(a), the assessor maintains a two-year transfer list for public use. The assessor's office has computers available for the public to access transfer information. The transfer list is divided into geographical areas by book number or address as required by section 408.1(b), and it is continuously and automatically updated. The transfer list includes the transferee, transferor, the APN, the property address, the date of transfer, the date of recording, the recording reference number, and the documentary transfer tax.

Legal Entity Ownership Program (LEOP)

Section 64 provides that certain transfers of ownership interests in a legal entity constitute a change in ownership of all real property owned by the entity and any entities under its ownership control. Rule 462.180 interprets and clarifies section 64, providing examples of transactions that either do or do not constitute a change in entity control and, hence, either do or do not constitute a change in ownership of the real property owned by the entity. Discovery of these types of changes in ownership is difficult for assessors, because ordinarily there is no recorded document evidencing a transfer of an ownership of an interest in a legal entity.

To assist assessors, the BOE's LEOP section gathers and disseminates information regarding changes in control and ownership of legal entities that hold an interest in California real property. On a monthly basis, LEOP transmits to each county assessor a listing, with corresponding property schedules, of legal entities that have reported a change in control under section 64(c) or change in ownership under section 64(d). However, because the property affected is self-reported by the person or entity filing information with the BOE, LEOP advises assessors to independently research each entity's property holdings to determine whether all affected parcels have been identified and properly reappraised.

Sections 480.1, 480.2, and 482 set forth the filing requirements and penalty provisions for reporting of legal entity changes in control under section 64(c) and changes in ownership under 64(d). A change in ownership statement must be filed with the BOE within 45 days of the date of change in control or change in ownership; reporting is made on BOE-100-B, *Statement of Change in Control and Ownership of Legal Entities*. Section 482(b) provides for application of penalty if a person or legal entity required to file a statement under 480.1 and 480.2 does not do so within 45 days from the earlier of (1) the date of change in control or ownership or (2) the date of written request by the BOE. The BOE advises county assessors of entities that are subject to penalty so they can impose the applicable penalty to the entity's real property.

The senior title examiner reviews monthly LEOP reports to determine if any entities listed as undergoing a change in control or change in ownership held real property located in Imperial County. Ownership records of additional properties owned by an entity are also reviewed to ensure all real property held by the entity is reassessed as a result of a change in control. The corresponding APNs for each entity are written on a log sheet and attached to a copy of the BOE-100-B before being given to a title examiner for processing. The assessor also discovers

potential changes in control or ownership of legal entities from newspaper articles, annual business property statements, local business journals and magazines, phone calls to the assessor's office, and field inspections. The assessor notifies the BOE's LEOP section upon discovery of a potential change in control after confirming that the acquired entity holds real property in Imperial County as of the date of change in control.

Our review of several records shows the county does a thorough job of reviewing LEOP reports and reassessing all property interests reported on an entity's BOE-100-B and any additional properties owned by the entity not reported on the BOE-100-B that were subject to reassessment. The assessor properly processes LEOP notices and promptly revalues properties that have undergone a change in ownership.

Change in Ownership Exclusions – Section 63.1

Section 63.1 generally excludes from the definition of "change in ownership" the purchase or transfer of principal residences and the first \$1 million of other real property between parents and children. Section 63.1 also excludes qualifying purchases or transfers from grandparents to their grandchildren.

To enforce the \$1 million limit for property other than principal residences, the BOE maintains a database that lists transfers of such property statewide. To further the state and local interests served by tracking these transfers, section 63.1 encourages county assessors to report such transfers to the BOE on a quarterly basis. The quarterly reporting, which was formerly mandatory, is now optional. Even if an assessor opts not to report quarterly to the BOE, however, the assessor must track such transfers internally to be in compliance with section 63.1.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any transferors who have been granted the exclusion for property over their \$1 million limit. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

Applications and information regarding exclusions from reappraisal are available to the public at the assessor's office and on the assessor's website.

The following table represents section 63.1 claims filed in Imperial County in recent years:

ROLL YEAR	SECTION 63.1 CLAIMS FILED
2009-10	660
2008-09	665
2007-08	945
2006-07	2,086
2005-06	2,154

Title examiners review all section 63.1 applications and determine if the exclusion will be granted or denied. Property owners are notified if the exclusion is denied. A written confirmation of an approved claim is provided upon request.

If a PCOR or COS indicates a transfer may be between a parent(s) and child(ren) or from grandparent(s) to grandchild(ren), the county is proactive in notifying interested parties of a possible exclusion. The title examiner handling the transfer will typically send the taxpayer a claim form and cover letter advising them of a possible exclusion from reassessment. The mailings are tracked through a computer database and a hard copy batch log book. Copies of the claim, as well as any corresponding transfer information, are kept in a file at the senior title examiner's desk. After 30 days, if a claim form is still in the file and there has been no response, a title examiner may follow up with a telephone call to the taxpayer. However, typically, the property is assigned to an appraiser to reassess.

The assessor submits optional quarterly reports to the BOE listing approved section 63.1 transfer exclusions involving property other than the transferor's principal residence. When the quarterly *Report of Transfers Exceeding \$1,000,000* is received from the BOE, a title examiner identifies the parcel or parcels involved and makes a note in the system. Transfers within the county are also tracked according to social security number. If multiple properties transfer within the county, a title examiner contacts the property owner or representative to determine which parcel or parcels they choose to be reappraised. Once the property owner or representative makes the decision, the list of parcels is given to a division supervisor to determine the excluded portion. If parcels exceeding the limit are in counties other than Imperial County and the most recent transfer is in another county, contact is made with the other county to ensure a reappraisal is completed.

Pursuant to section 63.1(i), the county maintains the confidentiality of claim forms by storing all submitted claim forms in a locked cabinet. The information is not accessible to the public.

Change in Ownership Exclusions – Section 69.5

Section 69.5 generally allows persons 55 years of age or older, or who are severely and permanently disabled, to transfer the base year value of a principal residence to a replacement residence of equal or lesser value located within the same county. A county board of supervisors may provide by ordinance that base year values may be transferred from properties located outside the county.

In general, a person may claim relief under section 69.5 only once during their lifetime. To prevent improper multiple claims for this relief, section 69.5 requires county assessors to report to the BOE, on a quarterly basis, any approved section 69.5 claims.

The BOE uses the information received by assessors to generate quarterly reports notifying assessors of any improper multiple claims. With this information, assessors are able to identify ineligible claims and, if necessary, take corrective action.

Section 69.5 authorizes individual county board of supervisors to expand this exclusion to include intercounty transfers. However, Imperial County does not accept base year value transfers from other counties. Applications and information regarding exclusions from reappraisal are available to the public at the assessor's office and on the assessor's website.

The following table represents section 69.5 claims filed in Imperial County in recent years:

ROLL YEAR	SECTION 69.5 CLAIMS FILED
2009-10	11
2008-09	10
2007-08	3
2006-07	5
2005-06	25

When a submitted PCOR indicates a section 69.5 exclusion may apply, the PCOR information is entered into the computer database program and forwarded to a title examiner. The office supervisor reviews the database to determine if the property owner has previously been approved for a base year value transfer in the county. If the claimant has not previously been approved for this exclusion, a claim form and cover letter is mailed to the property owner. Once a claim form is returned, the application is reviewed to determine if the claimant meets eligibility requirements. If the basic requirements are met, the claim is forwarded to a division supervisor to determine whether the equal or lesser value requirement has been met. Once the claim is processed, property owners are notified by phone if the claim is approved or denied.

Imperial County submits the required quarterly reports to the BOE listing approved section 69.5 transfer exclusions. The assessor also reviews the quarterly *Duplicate SSN Report* from the BOE to determine if any claims made in Imperial County duplicate any claims made previously in another county.

Pursuant to section 69.5(n), the county maintains the confidentiality of claim forms by storing all submitted claim forms in a locked cabinet. The information is not accessible to the public.

Valuation

Once a transfer has been determined to be a change in ownership and a reappraisable event, the information is sent to a division supervisor. Changes in ownership are reviewed to confirm the reported sale price accurately reflects market value. The sale price is not automatically enrolled.

Typically, residential changes in ownership are valued using the comparative sales approach, and commercial changes in ownership are valued using the comparative sales and income approaches. To obtain additional income and expense information for commercial properties, the assessor mails a questionnaire to the property owner. Field inspections of a property are conducted if more information regarding the condition of the property is required for the appraiser to make an accurate determination of market value. We found supplemental assessments are processed correctly.

Improvement Bonds

Improvement bonds are instruments used to finance construction of public improvements that generally enhance the land value of privately-owned real property, such as sewers, sidewalks, lighting, and water lines. Land directly benefiting from such improvements is pledged as security for payment of the construction loan.

Section 110(b) provides that there is a rebuttable presumption that the value of improvements financed by the proceeds of an assessment resulting in a lien imposed on the property by a public entity is reflected in the total consideration, exclusive of the lien amount, involved in the transaction. This presumption may be overcome if the assessor establishes by a preponderance of the evidence that all or a portion of the value of those improvements is not reflected in that consideration. Imperial County has a minimal amount of parcels affected by improvement bonds. It is the assessor's policy not to add for improvement bonds unless the market indicates the value of those improvements is not reflected in the total consideration.

We reviewed properties with a change in ownership and found no problems with the assessor's handling of improvement bonds.

New Construction

Section 70 defines newly constructed property, or new construction, as (1) any addition to real property since the last lien date, or (2) any alteration of land or improvements since the last lien date that constitutes a major rehabilitation of the property or converts the property to a different use. Further, section 70 establishes that any rehabilitation, renovation, or modernization that converts an improvement to the substantial equivalent of a new improvement, constitutes a major rehabilitation of the improvement. Section 71 requires the assessor to determine the full cash value of newly constructed real property on each lien date while construction is in progress and on its date of completion, and provides that the full cash value of completed new construction becomes the new base year value of the newly constructed property.

Rules 463 and 463.500 clarify the statutory provisions of sections 70 and 71, and the Assessors' Handbook Section 502, *Advanced Appraisal*, Chapter 6, provides guidance for the assessment of new construction.

There are several statutory exclusions from what constitutes new construction; sections 70(c) and (d), and sections 73 through 74.7 address these exclusions.

Discovery

Building permits are the assessor's primary means of discovering assessable new construction. The assessor receives building permits from nine permit-issuing agencies: the cities of Brawley, Calexico, Calipatria, El Centro, Holtville, Imperial, and Westmorland; the County of Imperial; and the County Department of Environmental Health, which issues permits for wells and septic systems. In addition, the assessor uses newspaper articles, business property statements, and field inspections to discover unpermitted new construction.

Permit Processing

The assessor receives copies of permits from all of the permit-issuing agencies once a week. An account clerk groups the permits by assessor's parcel number and property type. The assistant assessor culls permits for nonassessable new construction, such as gas line repairs, replacement of fences, re-roofing, re-stuccoing, and repair or replacement of central heating and cooling units.

The permits are then distributed by property type to the supervising real property appraisers. The supervisors verify that the permits culled are for repairs and replacements and note the permit information on the building record. All other permits are entered into the computer system for tracking and assignment to the appraisers.

The computer system generates valuation worksheets, which are distributed to the appraisers for valuation of the new construction, along with the building record and permit. After the appraiser values the new construction, the file is returned to the supervisor for review and approval. If approved, the value is entered into the computer system and a notice of supplemental assessment is generated.

The assessor follows specific procedures to ensure proper processing of all permits. The processing procedures are thorough and provide for effective retrieval of information upon which an appraiser may make informed decisions.

Valuation

The assessor values new construction at its full market value as of the date of completion. The assessor receives a computer disk with notices of completion from the county building department each month. The city building departments provide the assessor with hard-copy lists of notices of completion each month. Information from the notices of completion is entered into the computer system, and a list of completion dates is distributed to the appraisers.

The assessor uses all three approaches to value new construction if there is adequate data to do so. When using the cost approach, the assessor utilizes cost estimates derived using Assessors' Handbook Section 531, *Residential Building Costs* (AH 531), and *Marshall Valuation Service*. The assessor also attempts to obtain the historical costs to compare with the costs derived from the cost guides.

We reviewed a number of property records with completed new construction. The records were well documented, showing the assessor appraised construction in progress as of the lien date and

appraised completed new construction as of the date of completion. The assessor's program for assessing new construction is well organized and designed to meet all statutory requirements. We have no recommendations for the new construction program.

Declines in Value

Section 51 requires the assessor to enroll on the lien date an assessment that is the lesser of a property's factored base year value (FBYV) or its current full cash value, as defined in section 110. Thus, if a property's full cash value falls below its FBYV on any given lien date, the assessor must enroll that lower value. If, on a subsequent lien date, a property's full cash value rises above its FBYV, then the assessor must enroll the FBYV.

Due to unfavorable economic conditions, property values in most areas of California have either declined or become stagnant. As a result, assessors have been reducing taxable values below FBYVs. Imperial County is no exception.

The following table shows the number of decline-in-value assessments in Imperial County for recent years:

ROLL YEAR	DECLINES IN VALUE
2009-10	26,000
2008-09	25,125
2007-08	15,207
2006-07	2,894
2005-06	4,841

Declines in value are primarily discovered through taxpayer requests and appraisers' knowledge of values. However, for the 2009-10 roll year, the assessor prepared a market study to identify geographical areas and base year value time frames for changes in ownerships likely to be affected by declines in value. Based on this market study, the assessor multiplied the building size of potentially affected properties by a market derived price per square foot to determine a rough estimate of market value to be compared to a property's FBYV, enrolling the lower of the two values. Properties with an unusually high percentage of decrease in value were flagged for manual review.

Taxpayers may request an informal review of their property value by submitting an *Informal Valuation Review Request*. The form requests "data in support" of the taxpayer's opinion of value, but a list of comparable sales is not a required field. Decline-in-value adjustments are documented with a list of comparable sales. When a property owner in a homogeneous tract requests a review, and it is determined the property's value has declined below its FBYV, the assessor proactively makes mass adjustments where sufficient comparable sales data supports the reduction.

Decline-in-value properties are tracked in the computer system. The computer system ensures the annual inflation factor is not applied to decline-in-value properties until the assessments are restored to the FBYVs. It also ensures decline-in-value properties are annually reviewed for

possible adjustment after the first lien date of reduced taxable value. This procedure meets the requirements of section 51(e).

Overall, the assessor's decline-in-value program is effective and well administered. However, we did find one area that needs improvement.

RECOMMENDATION 5: Send value notices to property owners as required by section 619(a).

In Imperial County, it is the assessor's practice to use the tax bill as notice to the property owners for decline-in-value properties that have been fully or partially restored to FBYVs.

Section 619(a) requires the assessor to inform each assessee of real property on the local secured roll whose property's full value has increased over its full value for the prior year of the higher assessed value as it shall appear on the completed local roll. In addition, section 619(b) requires the value notice to include a statement of the assessment appeals filing period and an explanation of the stipulation procedure. Section 619(c) requires the value notice to show the FBYV of the property for decline-in-value properties that have been fully or partially restored to the FBYVs. The property tax bills in Imperial County do not include a statement of the assessment appeals filing period and an explanation of the stipulation procedure, nor do they show the FBYV of the property.

The assessor's practice of using the tax bill as notice to the property owners for decline-in-value properties that have been fully or partially restored to FBYVs leaves taxpayers uninformed as to the assessment appeals filing period, the stipulation procedure, and the FBYV of the property.

California Land Conservation Act Property

Pursuant to the California Land Conservation Act (CLCA) of 1965, agricultural preserves may be established by a city or county for the purpose of identifying areas within which the city or county will enter into agricultural preserve contracts with property owners.

Property owners who place their lands under contract agree to restrict the use of such lands to agriculture and other compatible uses; in exchange, the lands are assessed at a restricted value. Lands under contract are valued for property tax purposes by a method that is based on agricultural income-producing ability (including income derived from compatible uses, such as hunting rights and communications facilities). Although such lands must be assessed at the lowest of the restricted value, current market value, or factored base year value, the restricted value typically is the lowest.

Sections 421 through 430.5 prescribe the method of assessment for land subject to agricultural preserve contracts. Assessors' Handbook Section 521, *Assessment of Agricultural and Open-Space Properties* (AH 521), provides guidance for the appraisal of these properties.

For the 2009-10 assessment roll, Imperial County had 279 parcels encompassing 141,111 acres encumbered by CLCA contracts with a total assessed value of \$283,175,351. Imperial County has 199 parcels in nonrenewal status.

The valuation of CLCA properties is the responsibility of one supervising real property appraiser, who annually calculates the restricted value, factored base year value (FBYV), and market value of CLCA properties, and enrolls the lowest of these three values. The assessor has developed a computerized system that performs the calculations for all three of the required value indicators.

Our review found that the assessor recognizes appropriate expenses, including charges for management, insurance, maintenance, and return on and of the investment in irrigation systems when determining the income to be capitalized into value. Rents are updated based on information reported on CLCA questionnaires, which are mailed out every three years.

The assessor utilizes appropriate capitalization rates, including a component for risk, when determining the restricted values of CLCA properties. As recommended by AH 521, the assessor uses a basic risk component of 1 percent for the purpose of developing the capitalization rate. Additionally, AH 521 notes that the size of the risk component will vary according to what risks have already been considered in the development of the income to be capitalized. The assessor uses economic cash rents in the valuation process and considers any additional risk in the development of the income stream.

Overall, we found that the assessor has an effective CLCA program and is in compliance with all applicable statutes.

Taxable Possessory Interests

A taxable possessory interest results from the possession, a right to possession, or a claim to a right to possession of publicly owned real property, in which the possession provides a private benefit to the possessor and is independent, durable, and exclusive of rights held by others. The assessment of a taxable possessory interest in tax-exempt publicly owned property is based on the value of the rights held by the possessor; the value of the rights retained by the public owner is almost always tax exempt.

The assessor enrolled 451 taxable possessory interests (PIs) on the 2009-10 assessment roll with a total assessed value of \$51,309,386. These PIs are located on property owned by 13 public agencies. The majority of PIs in Imperial County are hangars and tie-downs at the three local airports: Imperial County, City of Calexico, and City of Brawley. Other types of PIs in the county include a large medical office building complex, a theater complex, cable television franchises, uses at the fairgrounds, two county campgrounds, and sand and gravel operations on Bureau of Land Management land.

The assessor's primary means of discovering PIs are from reports received annually from public agencies. Each year the assessor sends a letter to each agency requesting a list of tenants. The agencies are typically cooperative and responsive. Once the lists are received, they are compared to lists from prior years to determine if any changes have occurred. Any new PIs are appraised and values are enrolled. PIs are enrolled by the business property division on the unsecured tax roll.

Valuation and monitoring of the PIs are the primary responsibility of two appraisers. The supervising appraiser reviews all PI valuations.

We reviewed several PIs with month-to-month terms of possession, including hangars, tie-downs, offices, and retail uses at the county's three airports. In determining the reasonably anticipated term of possession for these types of properties, the assessor conducted a survey and documented the history, customs, and practices of the private possessor and the public owners, including the actions of the parties and the histories of their relationships. The accumulated data was then compared to similarly situated private possessors. The assessor properly establishes a reasonably anticipated term of possession for these PIs in accordance with Rule 21(d)(2). We reviewed properties with one-, three-, and five-year terms. The assessor also properly recognizes changes in ownership of these PIs in accordance with section 61(b)(2).

Pursuant to section 155.20, Imperial County adopted and approved Resolution 98-111 to exempt property with a full value of less than \$5,000. In the case of a PI for a temporary and transitory use in a publicly owned fairground, the county has increased the full value exemption threshold to \$50,000. Our review of PIs at the Imperial County fairgrounds confirms the assessor is properly exempting certain uses at the fairgrounds.

Overall, the assessor has an effective PI assessment program. There are, however, areas in which the PI assessment program could be improved.

RECOMMENDATION 6: Improve the taxable possessory interest assessment program by: (1) obtaining copies of all lease agreements that create taxable possessory interests, (2) periodically reviewing all taxable possessory interests with stated terms of possession for declines in value, and (3) capitalizing net income to the lessor when valuing taxable possessory interests by the income approach.

Obtain copies of all lease agreements that create taxable possessory interests.

We found many PI appraisal records that did not contain a copy of the lease that gave rise to the PI; specifically, only one in four PI records contained a copy of the lease.

Rule 21 describes the various approaches to value and how to determine the term of possession for the valuation of PIs. For example, subsection (d) explains that the stated term of possession is deemed the reasonably anticipated term of possession except in certain situations, and subsection (e)(3)(C) explains how to determine the net operating income for capitalization purposes. These steps in the valuation process cannot be completed if the contract creating the PI is not reviewed. The assessor may have information relating to the initial lease term but may not know of any renewal options contained in the lease or of lessor/lessee expense allocations. The usage reports submitted annually to the assessor by government agencies that lease property to others provide some information but are not adequate substitutes for the actual leases.

Incomplete data may lead to incorrect assessments.

Periodically review all taxable possessory interests with stated terms of possession for declines in value.

We found that, for lien dates subsequent to the establishment of the base year value, the assessor does not determine the market value of a PI with a stated term of possession and compare it to the factored base year value for the purpose of ensuring the lower of the two values is enrolled. Instead, the factored base year value is enrolled, year after year, until the contract term expires or there is a change in ownership.

Section 51 requires the assessor to assess real property, including PIs, at the lesser of the factored base year value or the current fair market value, taking into consideration any reductions in value due to damage, depreciation, or any other factors causing a decline in value. In determining the current fair market value of a PI with a stated term of possession, Rule 21 provides that the stated term of possession must be used as the reasonably anticipated term of possession unless there is clear and convincing evidence that the lessor and lessee have mutually agreed to a different term. Generally, as the remaining term of the contract declines, the market value of the PI declines.

Although the assessor is not required to reappraise all properties each year, the assessor should periodically review the assessments of PIs with stated terms of possession to ensure declines in value are consistently recognized. Failing to use a declining term when valuing PIs may result in overassessments.

Capitalize net income to the lessor when valuing taxable possessory interests by the income approach.

The assessor does not deduct the lessor's operating expenses from the gross income before capitalizing the income stream into a present value indicator.

Assessors' Handbook Section 510, *Assessment of Taxable Possessory Interests* (AH 510), provides that in the direct method of the income approach, it is appropriate for the appraiser to estimate the value of the PI by discounting either (1) the estimated economic rent less allowed expenses paid by the public owner or (2) that portion of the estimated future net operating income attributable to the PI. A public owner will incur some management expense with each PI. Moreover, some lease agreements require the lessor to pay for such items as building maintenance, utilities, or janitorial service.

By estimating the fair market value using gross income rather than net income to the lessor, the assessor is overstating the value of PIs.

Leasehold Improvements

Leasehold improvements are all improvements or additions to leased property that have been made by the tenant or lessee. Such improvements can be secured to the real property or assessed to the lessee on the unsecured assessment roll.

Commercial, industrial, and other types of income-producing properties require regular monitoring by the assessor because, as tenants change over time, they may add or remove

improvements that may result in a changed use of the property. These changes must, by law, be reflected in the property's assessment if they qualify as new construction.

When real property is reported on BOE-571-L, *Business Property Statement* (BPS), coordination between the real property and business property divisions of the assessor's office is important. The reported cost should be examined by both an appraiser in the real property division and an auditor-appraiser in the business property division. The divisions should determine the proper classification of the property to ensure appropriate assessment by each division and to avoid escape and double assessments. The assessor must determine whether costs are for repair and maintenance and are, therefore, not assessable, whether additions are properly classified as structural improvements or fixtures, and if additions are properly enrolled.

Discovery

In Imperial County, the most common sources for the discovery of leasehold improvements are BPSs, building permits taken out by tenants, and leases of commercial/industrial property. Other discovery tools include BOE-571-D, *Supplemental Schedule for Reporting Monthly Acquisitions and Disposals of Property Reported on Schedule B of the Business Property Statement* (supplemental schedule), field canvassing, and real property reviews.

Valuation

The assessment of leasehold improvements is initially the responsibility of the business property division. The business property division investigates all costs reported on the BPS and determines the proper classification of leasehold improvements. If the property owner has returned a supplemental schedule, the reported cost of the leasehold improvement is used to determine fair market value. When a supplemental schedule is not returned, the property owner is contacted by telephone and a site inspection is scheduled, if necessary, in an attempt to gather enough information to value the leasehold improvement.

When the business property division is unable to gather enough information to use the reported cost to value the leasehold improvement, the leasehold improvement file, BPS, and supplemental schedule are forwarded to the real property division for analysis. The real property division values the leasehold improvement and returns the completed leasehold file to the business property division, and a notation is made on the BPS that the improvement has been assessed.

Leasehold improvements are assessed as either structural improvements or business fixtures. If the tenant improvement is assessed as a structural improvement, it is assessed at the lower of its factored base year value or current market value. If the tenant improvement is assessed as a business fixture, it is also assessed at the lower of its factored base year value or current market value; however, because a business fixture is assigned a shorter life than a structure, its market value is normally below the factored base year value.

Leasehold improvements are assessed to the tenant when there is a documented agreement between the landlord and tenant to do so. When leasehold improvements are abandoned, the business property division contacts the real property owner to obtain information in order to determine whether the leasehold improvements add value to the real property. If the leasehold

improvements add value to the real property, the leasehold improvement value is added to the secured account.

The assessor issues supplemental assessments for structural leasehold improvements on the secured roll; however, the assessor does not issue supplemental assessments for structural leasehold improvements on the unsecured roll.

We reviewed leasehold improvement records and found sufficient coordination between the real property and business property divisions in the assessment of leasehold improvements to avoid escapes and duplicate assessments. We also found that the assessor is correctly issuing supplemental assessments for structural leasehold improvements, but not consistently. We found one area in need of improvement.

RECOMMENDATION 7: Issue supplemental assessments for structural leasehold improvements assessed on the unsecured roll.

The assessor does not issue supplemental assessments for structural leasehold improvements enrolled on the unsecured roll. Section 75.11 provides that supplemental assessments shall be issued following a change in ownership or completed new construction. This provision applies to structural leasehold improvements whether enrolled on the secured or unsecured roll. The assessor's practice has resulted in lost revenue to the county and inconsistent treatment of taxpayers.

Water Company Property

Taxable water company properties may include the property of private water companies, mutual water companies, and some property of government-owned water systems. Each type of water company presents different assessment issues for the property owned by them.

Regulated Water Companies

Private water companies, both regulated and unregulated, are utility companies that earn a profit from the sale of water. The California Public Utilities Commission (CPUC) regulates the rates charged by private water companies, limiting profits to an authorized return on the companies' investment. The market values of real property owned by regulated companies are tied directly to those rates. Rate regulation may result in the current market value of the real property being lower than its factored base year value.

Imperial County has one private for-profit CPUC-regulated water company. Because this company also has electrical generating capacity, which requires a Certificate of Public Necessity and Convenience by the CPUC, it is assessed by the BOE.

Mutual Water Companies

A mutual water company is a private association created for the purpose of providing water at cost to its members or stockholders. Usually, the individual ownership interests in a mutual water company are appurtenant to individual parcels of land eligible for water service from the company. In such cases, little value should be assigned to the land, improvements, and delivery

system owned by the water company, because the values of these properties are reflected in the assessments of the member or stockholder parcels.

There are two mutual water companies operating in Imperial County. We found that the value of the mutual water company property was properly reflected in the value of the individual parcels of land appurtenant to the water companies.

Municipal Water Systems

Article XIII, section 3(b) of the California Constitution exempts from taxation property owned by a local government and located within its boundaries. This includes both property owned by city water departments located within city limits, and property owned by water districts located within district boundaries. When the water system is located outside of the government agency's boundaries, this exemption does not apply.

Imperial County has eight government-owned municipal water systems. All eight municipal water systems are located within city limits and district boundaries. We found that the assessor has properly exempted these municipal water systems.

We have no recommendations for improvements to the assessor's procedures for assessing water company property.

Mineral Property

By statute and case law, mineral properties are taxable as real property. They are subject to the same laws and appraisal methodology as all real property in the state. However, there are three mineral-specific property tax rules that apply to the assessment of mineral properties. They are Rule 468, *Oil and Gas Producing Properties*, Rule 469, *Mining Properties*, and Rule 473, *Geothermal Properties*. These rules are interpretations of existing statutes and case law with respect to the assessment of mineral properties.

Petroleum, geothermal, and mining properties comprise the three main categories of mineral properties. There are no assessable petroleum properties in Imperial County.

Geothermal Properties

Geothermal property mineral rights refer to the rights to explore for, develop, and produce useful geothermal energy, and the real property associated with these rights. Pursuant to Rule 473, the rights to enter in or upon the land for the purpose of exploration, development, or production of proved reserves are taxable real property interests to the extent that they individually or collectively have ascertainable value. "Proved reserves" means that quantity of geothermal energy, capable of supporting the economic life of the geothermal project(s), which geological and engineering information indicate with reasonable certainty to be recoverable in the future, taking into account reasonably projected physical and economic operating conditions.

Imperial County has 40 geothermal properties, and the assessed value of these properties is approximately \$989,000,000. A review of the geothermal property assessments indicates the assessor is complying with recommended guidelines for the appraisal of geothermal properties.

Mining Properties

Mining property mineral rights refer to the rights to explore, develop, and produce minerals, other than oil, gas, and geothermal resources, and the real property associated with these rights. Pursuant to Rule 469, the rights to enter in or upon land for the purpose of exploration, development, or production of minerals are taxable real property interests to the extent they individually or collectively have ascertainable value. "Minerals" means organic and inorganic earth material including rock but excluding oil, gas, and geothermal resources.

Imperial County has a long history of producing gold, silver, and other industrial minerals. Recent increases in gold prices have spurred the reactivation of gold mining activity in the county. The assessor's valuation of gold mines appears to follow BOE guidelines.

There are over 20 sand and gravel properties being operated in Imperial County that are located on Bureau of Land Management land. These properties are assessed as taxable possessory interests and are valued by the assessor using a royalty method. The interest is typically limited to a specific quantity of sand and gravel extraction. During our review of mining properties, we found one area in need of improvement.

RECOMMENDATION 8: Use the correct present worth factors when valuing taxable possessory interest mining properties.

When determining the current market value of the remaining minerals under mining contracts, the assessor does not consider the time to extract the minerals and uses present worth factors that do not fit with the expected durations of the mineral leases. For example, one property has remaining reserves of 290,517 tons and an annual production of 41,500 tons. The remaining life for this property would be about seven years, yet the assessor used a present worth factor of a much longer duration. Another property indicates reserves with a remaining life of less than one year, but the same present worth factor is used to determine the current market value. Since present worth factors take into consideration the time frame of the income stream, a longer income stream, one with multiple years, should have a larger factor than an income stream with a shorter expected life.

The royalty appraisal technique is an income method that values the periodic royalty payments made to the landowner as minerals are produced from a property. The technique determines the value of the leased fee interest in the property and is a very close approximation of the mineral right value for small properties. The technique discounts the periodic payments at a discount rate appropriate for the risk of the property. To determine the future periodic payments, the annual production rate is estimated and multiplied by the royalty paid per unit of mineral produced. If the duration of the income stream is longer than a single year, the correct present worth factor for discounting the future series of payments can be determined by summing the present worth factors published in Assessors' Handbook Section 566, *Assessment of Petroleum Properties*.

The assessor's practice of not using the appropriate present value factor for the remaining minerals may result in inaccurate assessments.

ASSESSMENT OF PERSONAL PROPERTY AND FIXTURES

The assessor's program for assessing personal property and fixtures includes the following major elements:

- Discovery and classification of taxable personal property and fixtures.
- Mailing and processing of annual property statements and questionnaires.
- Annual revaluation of taxable personal property and fixtures.
- Auditing taxpayers whose assessments are based on information provided in property statements.

The assessor's staff assigned to the business property program consisted of 5 positions: 1 supervising auditor-appraiser, 2 auditor-appraisers, and 2 assessment technicians.

In this section of the survey report, we review the assessor's programs for conducting audits, processing business property statements, valuing business equipment, and assessing manufactured homes.

Audit Program

A comprehensive audit program is essential to the successful administration of any tax program that relies on information supplied by taxpayers. A good audit program discourages deliberate underreporting, helps educate those property owners who unintentionally misreport, and provides the assessor with additional information to make fair and accurate assessments.

Prior to January 1, 2009, section 469 required county assessors to audit, at least once every four years, the books and records of any taxpayer engaged in a profession, trade, or business, if the taxpayer had assessable trade fixtures and business tangible personal property valued at \$400,000 or more. These statutorily required audits are commonly referred to as mandatory audits. Additionally, a county assessor may audit the books and records of taxpayers with holdings below \$400,000 in value under the authority of section 470. These audits are referred to as nonmandatory audits. Generally, county assessors perform both mandatory and nonmandatory audits to ensure that their audit program includes a representative sample of all sizes and types of businesses with personal property holdings subject to the property tax.

Effective January 1, 2009, county assessors are no longer required to audit all taxpayers with trade fixture and business tangible personal property holdings of \$400,000 or more at least once every four years. Instead, the county assessor is required to annually audit a significant number of audits as specified in section 469. The significant number of audits required is at least 75 percent of the fiscal year average of the total number of mandatory audits the assessor was required to have conducted from the 2002-03 fiscal year to the 2005-06 fiscal year, with at least 50 percent of those to be selected from a pool of those taxpayers with the largest assessments. Thus, while section 469 still mandates a certain level of audits that must be performed annually, assessors now have some flexibility in determining which accounts will comprise this mandated workload.

We reviewed the assessor's calculations that establish future audit workloads, as well as recent audit production. During the 2008-09 assessment year, the assessor completed 54 audits. The amended statute requires the assessor to complete 40 audits per year hereafter. Therefore, it appears the assessor will complete the newly defined number of audits required.

Audit Quality

An audit should follow a standard format so that the auditor-appraiser may easily determine whether the property owner has correctly reported all taxable property. Audit narratives and summaries should include adequate documentation, full value calculations, reconciliation of the fixed assets totals to the general ledger and financial statements, review of asset invoices, reconciliation between reported and audit amounts, an analysis of expense accounts, and an analysis of depreciation and obsolescence factors that may affect the value of the business property.

We sampled several recently completed audits and found that in all cases the audits were accurate, well documented, and supported by a comprehensive audit checklist defining the areas of investigation. The assessor verifies leased equipment, enrolls construction in progress, accounts for supplies, and properly classifies equipment. Furthermore, we reviewed the assessor's application of roll corrections to reflect audit findings; we found that when correcting for multiple-year audit findings, the assessor is enrolling roll corrections for each year in which the escape assessment took place pursuant to section 531.

Business Property Statement Program

Section 441 requires that each person owning taxable personal property (other than a manufactured home) having an aggregate cost of \$100,000 or more annually file a business property statement (BPS) with the assessor; other persons must file a BPS if requested by the assessor. Property statements form the backbone of the business property assessment program. Several variants of the BPS address a variety of property types, including commercial, industrial, agricultural, vessels, and certificated aircraft.

The two auditor-appraisers and two assessment technicians perform all BPS processing functions. We found that they check the current BPS costs against the prior year's BPS to verify consistent reporting from year to year, taking into account any additions or deletions, and they confirm reporting of leased equipment.

Discovery

The assessor utilizes a wide range of tools for discovering taxable business property. Taxpayer self-reporting and periodic field canvassing are significant means of discovering assessable property. Other means of discovery utilized by the assessor include reviewing city and county business licenses, fictitious business name filings, real property appraiser referrals, business directory services, landlord reports of tenants, and BOE sales tax permits. We found the assessor employs effective methods for discovering taxable business property.

General Statement Processing

We found that BPSs are date-stamped when received and are reviewed for changes in the owner's name, business name, situs, and mailing address. A certified auditor-appraiser prepares the valuation adjustments, which are entered into the database.

We reviewed the BPS program, which included the use of Board-prescribed forms, processing by noncertified staff, taxpayer interactions, completeness of the BPSs, authorized signatures, application of penalties, real property division coordination, and record storage and retention. In addition, we reviewed several active BPSs. We found that all BPSs sampled evidenced the proper usage of Board-prescribed forms and were properly signed.

Filing Procedures

Under section 441.5, in lieu of completing the BPS, the information required of the taxpayer may be furnished to the assessor as attachments to the BPS provided the attachments are in the format specified by the assessor and one copy of the BPS, as printed by the assessor, is signed by the taxpayer and carries appropriate reference to the data attached. The assessor allows taxpayers to submit attachments in lieu of completing a BPS as provided by section 441.5 only if the taxpayer or the taxpayer's assignee submits the signed original BPS.

We reviewed several BPSs and found the taxpayer or an authorized agent appropriately signed the BPS, even when a rendition was attached to an original of the BPS. Our review also included verifying the assessor's procedures for processing late-filed and non-filed BPSs. We found the assessor properly applies the late-filing penalty as required by section 463. Additionally, habitual non-filers are contacted in an attempt to collect accurate assessment information. If no other information is available, the assessor will conduct a field review.

Direct Billing

Many assessors utilize an assessment procedure called "direct billing" or "direct assessment." It is a method of assessing qualified low-value business accounts without the annual filing of a BPS. In Imperial County, an initial value is established by the assessor and that value is used for several years. A BPS is sent to the participating business every other year to update assessment information. Examples of businesses suitable for direct billing include apartments, barber shops, beauty parlors, coin-operated laundrettes, small cafes and restaurants, and professional firms with small equipment holdings.

The direct billing program is beneficial to the taxpayer and the assessor. It results in a reduction of paperwork for taxpayers and fewer BPSs that must be processed annually by the assessor's staff, allowing the auditor-appraisers time to perform other required duties.

For the 2009-10 assessment year, there were approximately 198 accounts in the direct billing program. The auditor-appraisers decide whether an account will be enrolled in the program. The assessor has an effective direct billing program.

Summary

Overall, we found that the assessor's BPS processing program to be effectively administered. The procedures in place are well structured and compliant with existing law. We have no recommendations regarding this topic.

Business Equipment Valuation

Assessors value most machinery and equipment using business property valuation factors. Some valuation factors are derived by combining price index factors with percent good factors, while other valuation factors result from valuation studies. A value indicator is obtained by multiplying a property's historical cost by an appropriate value factor.

Section 401.5 provides that the BOE shall issue information that promotes uniformity in appraisal practices and assessed values. Pursuant to that mandate, the BOE annually publishes Assessors' Handbook Section 581, *Equipment and Fixtures Index, Percent Good and Valuation Factors* (AH 581).

The assessor uses a codification system in the computer system to identify and designate the use of specific valuation tables for business property accounts. We reviewed the assessor's valuation factor tables and the assigned life tables, verifying that they were accurate and applied consistently within industries. Samples were analyzed to verify that the assessor was applying the correct valuation factor tables to various industries, estimating supplies when not reported, making appropriate trade-level adjustments for self-constructed equipment, assessing banks and financial institutions for fixtures, and correctly assessing mobile construction and agricultural accounts. We found the assessor does a good job valuing business equipment correctly and we have no recommendations for this program.

Manufactured Homes

A "manufactured home" is defined in Health and Safety Code sections 18007 and 18008, and statutes prescribing the method of assessing manufactured homes are contained in sections 5800 through 5842. A manufactured home is subject to local property taxation if sold new on or after July 1, 1980, or if its owner requests conversion from the vehicle license fee to local property taxation. Manufactured homes should be classified as personal property and enrolled on the secured roll.

For the 2009-10 assessment roll, Imperial County had 2,481 manufactured homes located in 12 mobilehome parks with a total assessed value of \$67,472,573. Pursuant to sections 5801(b)(2) and 5830, the assessor classifies manufactured homes as personal property and enrolls them on the secured roll with an assessment number beginning with "910." All manufactured homes in Imperial County are assessed by the rural supervisor or the appraiser assigned to the geographic area where the manufactured home is located.

When a manufactured home is permanently affixed to an approved foundation pursuant to Health and Safety Code section 18551, it is considered to be an improvement and is enrolled as real property. Before a manufactured home is enrolled as real property, the assessor verifies that the

manufactured home is affixed to an approved permanent foundation in accordance with Health and Safety Code section 18551 and verifies that the notice of affixation has been recorded.

The assessor discovers taxable manufactured home sales, new installations, and voluntary conversions to local property taxation by reviewing Department of Housing and Community Development (HCD) reports. The discovery program is supplemented by reviewing building permits, dealer reports of sale, and BOE-502-AH, *Preliminary Change of Ownership Report* (PCOR), as well as field canvassing. Taxable manufactured home accessories are generally discovered by reviewing building permits or through field canvassing.

Pursuant to section 5803, the assessor must consider recognized value guides for manufactured homes in determining the full cash value for a manufactured home on rented or leased land. In compliance with the statute, the assessor uses the *National Automobile Dealers Association Manufactured Housing Cost Guide* (NADA) when considering the value of a manufactured home. NADA is a reliable indicator of value for manufactured homes, because the values reflected are exclusive of site influence.

Our review revealed one area for improvement needed in the assessor's manufactured home program.

RECOMMENDATION 9: Periodically review manufactured homes for declines in value.

The assessor does not periodically review manufactured homes for declines in value. We found several manufactured homes where the value had remained the same for five to ten years.

Section 5813 requires the taxable value of a manufactured home shall be the lesser of its base year value, compounded annually by the inflation factor, or its full cash value as of the lien date. A review of cost manuals and value guides indicates it is not unusual for manufactured homes to decline in value.

Although the assessor is not required to reappraise all properties each year, he should be proactive in discovering properties declining in value. The assessor's practice could lead to the overassessment of manufactured homes classified as personal property.

APPENDIXES

A. County-Assessed Properties Division Survey Group

Imperial County

Chief

Dean Kinnee

Survey Program Director:

Benjamin Tang

Principal Property Appraiser

Survey Team Supervisor:

Pamela Bowens

Supervising Property Appraiser

Survey Team Leader:

Pamela Bowens

Supervising Property Appraiser

Survey Team:

James McCarthy

Senior Petroleum and Mining Appraisal Engineer

Michael Ash

Associate Property Appraiser

Bryan Bagood

Associate Property Appraiser

Brian Salmon

Associate Property Appraiser

Paula Montez

Associate Property Auditor-Appraiser

Ardeshir Noroozkhani

Associate Property Auditor-Appraiser

Julie Warren

Associate Property Appraiser

B. Relevant Statutes and Regulations

Government Code

15640. Survey by board of county assessment procedures.

- (a) The State Board of Equalization shall make surveys in each county and city and county to determine the adequacy of the procedures and practices employed by the county assessor in the valuation of property for the purposes of taxation and in the performance generally of the duties enjoined upon him or her.
- (b) The surveys shall include a review of the practices of the assessor with respect to uniformity of treatment of all classes of property to ensure that all classes are treated equitably, and that no class receives a systematic overvaluation or undervaluation as compared to other classes of property in the county or city and county.
- (c) The surveys may include a sampling of assessments from the local assessment rolls. Any sampling conducted pursuant to subdivision (b) of Section 15643 shall be sufficient in size and dispersion to insure an adequate representation therein of the several classes of property throughout the county.
- (d) In addition, the board may periodically conduct statewide surveys limited in scope to specific topics, issues, or problems requiring immediate attention.
- (e) The board's duly authorized representatives shall, for purposes of these surveys, have access to, and may make copies of, all records, public or otherwise, maintained in the office of any county assessor.
- (f) The board shall develop procedures to carry out its duties under this section after consultation with the California Assessors' Association. The board shall also provide a right to each county assessor to appeal to the board appraisals made within his or her county where differences have not been resolved before completion of a field review and shall adopt procedures to implement the appeal process.

15641. Audit of records; appraisal data not public.

In order to verify the information furnished to the assessor of the county, the board may audit the original books of account, wherever located, of any person owning, claiming, possessing or controlling property included in a survey conducted pursuant to this chapter when the property is of a type for which accounting records are useful sources of appraisal data.

No appraisal data relating to individual properties obtained for the purposes of any survey under this chapter shall be made public, and no state or local officer or employee thereof gaining knowledge thereof in any action taken under this chapter shall make any disclosure with respect thereto except as that may be required for the purposes of this chapter. Except as specifically provided herein, any appraisal data may be disclosed by the board to any assessor, or by the board or the assessor to the assessee of the property to which the data relate.

The board shall permit an assessee of property to inspect, at the appropriate office of the board, any information and records relating to an appraisal of his or her property, including "market data" as defined in Section 408. However, no information or records, other than "market data," which relate to the property or business affairs of a person other than the assessee shall be disclosed.

Nothing in this section shall be construed as preventing examination of that data by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, employees, or representatives conducting an investigation of an assessor's office pursuant to Section 25303, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine that data.

15642. Research by board employees.

The board shall send members of its staff to the several counties and cities and counties of the state for the purpose of conducting that research it deems essential for the completion of a survey report pursuant to Section 15640 with respect to each county and city and county. The survey report shall show the volume of assessing work to be done as measured by the various types of property to be assessed and the number of individual assessments to be made, the responsibilities devolving upon the county assessor, and the extent to which assessment practices are consistent with or differ from state law and regulations. The report may show the county assessor's requirements for maps, records, and other equipment and supplies essential to the adequate performance of his or her duties, the number and classification of personnel needed by him or her for the adequate conduct of his or her office, and the fiscal outlay required to secure for that office sufficient funds to ensure the proper performance of its duties.

15643. When surveys to be made.

- (a) The board shall proceed with the surveys of the assessment procedures and practices in the several counties and cities and counties as rapidly as feasible, and shall repeat or supplement each survey at least once in five years.
- (b) The surveys of the ten largest counties and cities and counties shall include a sampling of assessments on the local assessment rolls as described in Section 15640. In addition, the board shall each year, in accordance with procedures established by the board by regulation, select at random at least three of the remaining counties or cities and counties, and conduct a sample of assessments on the local assessment roll in those counties. If the board finds that a county or city and county has "significant assessment problems," as provided in Section 75.60 of the Revenue and Taxation Code, a sample of assessments will be conducted in that county or city and county in lieu of a county or city and county selected at random. The ten largest counties and cities and counties shall be determined based upon the total value of locally assessed property located in the counties and cities and counties on the lien date that falls within the calendar year of 1995 and every fifth calendar year thereafter.
- (c) The statewide surveys which are limited in scope to specific topics, issues, or problems may be conducted whenever the board determines that a need exists to conduct a survey.
- (d) When requested by the legislative body or the assessor of any county or city and county to perform a survey not otherwise scheduled, the board may enter into a contract with the requesting local agency to conduct that survey. The contract may provide for a board sampling of assessments on the local roll. The amount of the contracts shall not be less than the cost to the board, and shall be subject to regulations approved by the Director of General Services.

15644. Recommendations by board.

The surveys shall incorporate reviews of existing assessment procedures and practices as well as recommendations for their improvement in conformity with the information developed in the surveys as to what is required to afford the most efficient assessment of property for tax purposes in the counties or cities and counties concerned.

15645. Survey report; final survey report; assessor's report.

(a) Upon completion of a survey of the procedures and practices of a county assessor, the board shall prepare a written survey report setting forth its findings and recommendations and transmit a copy to the assessor. In addition the board may file with the assessor a confidential report containing matters relating to personnel. Before preparing its written survey report, the board shall meet with the assessor to discuss and confer on those matters which may be included in the written survey report.

(b) Within 30 days after receiving a copy of the survey report, the assessor may file with the board a written response to the findings and recommendations in the survey report.

The board may, for good cause, extend the period for filing the response.

(c) The survey report, together with the assessor's response, if any, and the board's comments, if any, shall constitute the final survey report. The final survey report shall be issued by the board within two years after the date the board began the survey. Within a year after receiving a copy of the final survey report, and annually thereafter, no later than the date on which the initial report was issued by the board and until all issues are resolved, the assessor shall file with the board of supervisors a report, indicating the manner in which the assessor has implemented, intends to implement or the reasons for not implementing, the recommendations of the survey report, with copies of that response being sent to the Governor, the Attorney General, the State Board of Equalization, the Senate and Assembly and to the grand juries and assessment appeals boards of the counties to which they relate.

15646. Copies of final survey reports to be filed with local officials.

Copies of final survey reports shall be filed with the Governor, Attorney General, and with the assessors, the boards of supervisors, the grand juries and assessment appeals boards of the counties to which they relate, and to other assessors of the counties unless one of these assessors notifies the State Board of Equalization to the contrary and, on the opening day of each regular session, with the Senate and Assembly.

Revenue and Taxation Code**75.60. Allocation for administration.**

- (a) Notwithstanding any other provision of law, the board of supervisors of an eligible county or city and county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll, may direct the county auditor to allocate to the county or city and county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) and prior to the allocation made pursuant to Section 75.70, an amount equal to the actual administrative costs, but not to exceed 5 percent of the revenues that have been collected on or after January 1, 1987, due to the assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.
- (b) For purposes of this section:
- (1) "Actual administrative costs" includes only those direct costs for administration, data processing, collection, and appeal that are incurred by county auditors, assessors, and tax collectors. "Actual administrative costs" also includes those indirect costs for administration, data processing, collections, and appeal that are incurred by county auditors, assessors, and tax collectors and are allowed by state and federal audit standards pursuant to the A-87 Cost Allocation Program.
 - (2) "Eligible county or city and county" means a county or city and county that has been certified by the State Board of Equalization as an eligible county or city and county. The State Board of Equalization shall certify a county or city and county as an eligible county or city and county only if both of the following are determined to exist:
 - (A) The average assessment level in the county or city and county is at least 95 percent of the assessment level required by statute, as determined by the board's most recent survey of that county or city and county performed pursuant to Section 15640 of the Government Code.
 - (B) For any survey of a county assessment roll for the 1996-97 fiscal year and each fiscal year thereafter, the sum of the absolute values of the differences from the statutorily required assessment level described in subparagraph (A) does not exceed 7.5 percent of the total amount of the county's or city and county's statutorily required assessed value, as determined pursuant to the board's survey described in subparagraph (A).
 - (3) Each certification of a county or city and county shall be valid only until the next survey made by the board. If a county or city and county has been certified following a survey that includes a sampling of assessments, the board may continue to certify that county or city and county following a survey that does not include sampling if the board finds in the survey conducted without sampling that there are no significant assessment problems in the county or city and county. The board shall, by regulation, define "significant assessment problems" for purposes of this section, and that definition shall include objective standards to measure performance. If the board finds in the survey conducted without sampling that significant assessment problems exist, the board shall conduct a sampling of assessments in that county or city and county to determine if it is an eligible county or city and county. If a county or city and county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of the survey.

Title 18, California Code of Regulations**Rule 370. Random selection of counties for representative sampling.**

- (a) **SURVEY CYCLE.** The board shall select at random at least three counties from among all except the ten largest counties and cities and counties for a representative sampling of assessments in accordance with the procedures contained herein. Counties eligible for random selection will be distributed as equally as possible in a five-year rotation commencing with the local assessment roll for the 1997–98 fiscal year.
- (b) **RANDOM SELECTION FOR ASSESSMENT SAMPLING.** The three counties selected at random will be drawn from the group of counties scheduled in that year for surveys of assessment practices. The scheduled counties will be ranked according to the size of their local assessment rolls for the year prior to the sampling.
- (1) If no county has been selected for an assessment sampling on the basis of significant assessment problems as provided in subdivision (c), the counties eligible in that year for random selection will be divided into three groups (small, medium, and large), such that each county has an equal chance of being selected. One county will be selected at random by the board from each of these groups. The board may randomly select an additional county or counties to be included in any survey cycle year. The selection will be done by lot, with a representative of the California Assessors' Association witnessing the selection process.
 - (2) If one or more counties are scheduled for an assessment sampling in that year because they were found to have significant assessment problems, the counties eligible for random selection will be divided into the same number of groups as there are counties to be randomly selected, such that each county has an equal chance of being selected. For example, if one county is to be sampled because it was found to have significant assessment problems, only two counties will then be randomly selected and the pool of eligible counties will be divided into two groups. If two counties are to be sampled because they were found to have significant assessment problems, only one county will be randomly selected and all counties eligible in that year for random selection will be pooled into one group.
 - (3) Once random selection has been made, neither the counties selected for an assessment sampling nor the remaining counties in the group for that fiscal year shall again become eligible for random selection until the next fiscal year in which such counties are scheduled for an assessment practices survey, as determined by the five-year rotation. At that time, both the counties selected and the remaining counties in that group shall again be eligible for random selection.
- (c) **ASSESSMENT SAMPLING OF COUNTIES WITH SIGNIFICANT ASSESSMENT PROBLEMS.** If the board finds during the course of an assessment practices survey that a county has significant assessment problems as defined in Rule 371, the board shall conduct a sampling of assessments in that county in lieu of conducting a sampling in a county selected at random.
- (d) **ADDITIONAL SURVEYS.** This regulation shall not be construed to prohibit the Board from conducting additional surveys, samples, or other investigations of any county assessor's office.

Rule 371. Significant assessment problems.

- (a) For purposes of Revenue and Taxation Code Section 75.60 and Government Code Section 15643, "significant assessment problems" means procedure(s) in one or more areas of an assessor's assessment

operation, which alone or in combination, have been found by the Board to indicate a reasonable probability that either:

- (1) the average assessment level in the county is less than 95 percent of the assessment level required by statute; or
 - (2) the sum of all the differences between the board's appraisals and the assessor's values (without regard to whether the differences are underassessments or overassessments), expanded statistically over the assessor's entire roll, exceeds 7.5 percent of the assessment level required by statute.
- (b) For purposes of this regulation, "areas of an assessor's assessment operation" means, but is not limited to, an assessor's programs for:
- (1) Uniformity of treatment for all classes of property.
 - (2) Discovering and assessing newly constructed property.
 - (3) Discovering and assessing real property that has undergone a change in ownership.
 - (4) Conducting mandatory audits in accordance with Revenue and Taxation Code Section 469 and Property Tax Rule 192.
 - (5) Assessing open-space land subject to enforceable restriction, in accordance with Revenue and Taxation Code Sections 421 et. seq.
 - (6) Discovering and assessing taxable possessory interests in accordance with Revenue and Taxation Code Sections 107 et. seq.
 - (7) Discovering and assessing mineral-producing properties in accordance with Property Tax Rule 469.
 - (8) Discovering and assessing property that has suffered a decline in value.
 - (9) Reviewing, adjusting, and, if appropriate, defending assessments for which taxpayers have filed applications for reduction with the local assessment appeals board.
- (c) A finding of "significant assessment problems," as defined in this regulation, would be limited to the purposes of Revenue and Taxation Code Section 75.60 and Government Code Section 15643, and shall not be construed as a generalized conclusion about an assessor's practices.

ASSESSOR'S RESPONSE TO BOARD'S FINDINGS

Section 15645 of the Government Code provides that the assessor may file with the Board a response to the findings and recommendation in the survey report. The survey report, the assessor's response, and the Board's comments on the assessor's response, if any, constitute the final survey report.

The Imperial County Assessor's response begins on the next page. The Board has no comments on the response.

ROY D. BUCKNER
ASSESSOR

JACK R. DUNNAM
ASSISTANT ASSESSOR



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Dean R. Kinnee, Chief
County Assessed Properties Division
California State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0062

RECEIVED

JUL 15 2011

Properties Division
Equalization

Dear Mr. Kinnee,

Please see the enclosed response to the Assessment Practices Survey completed for the 2009-2010 Assessment Roll for Imperial County. This response is made pursuant to Section 15645 of the California Government Code.

I want to express my appreciation to Pamela Bowens, Survey Team Supervisor, and the entire survey team for the professional and courteous manner in which the survey was conducted.

I wish to thank the survey team for not only bringing to our attention recommendations to improve our assessment practices but also for indicating the many areas of our assessment operations that are performed well.

I would like to express my appreciation to my staff for their hard work, professionalism and dedication to serving the taxpayers of Imperial County. The employees of the Assessors office are the reason that a fair and equitable Assessment Roll is made possible.

In reviewing my responses, you will find that I agree with most of the recommendations and have already implemented them into our assessment procedures.

Sincerely,

Roy Buckner
Imperial County Assessor

**IMPRERIAL COUNTY ASSESSOR'S RESPONSE
TO
STATE BOARD OF EQUALIZATION ASSESSMENT PRACTICE SURVEY
1-Jun-11**

Recommendation 1: Resolve assessment appeals within the two-year time period.

Assessors Response 1: We agree that all appeals should be resolved within the two year time period. In order to achieve the two-year time limit the Clerk of the Board of Equalization and the Board of Equalization must agree to hear the appeals timely. A separate Assessment Appeals Board from the Board of Supervisors is now in place which has helped eliminate this problem. Please note, it is not the Assessors common practice to allow appeals that we agree with to be enrolled by default and with the County Board of Equalizations help this should not be a problem.

Recommendation 2: Apply the correct penalties for late-filed welfare exemption claims.

Assessors Response 2: We agree that penalties should be applied for late filed welfare exemption claims. The Assessor has taken steps to correct this process.

Recommendation 3: Improve the use of assessment forms by using the most recent property tax forms.

Assessors Response 3: The Assessor agrees that current property tax forms should be used. We have taken the steps to inform all staff that only the most current property tax forms are to be used for Assessors business activities. All four forms have been up-dated.

Recommendation 4: Improve the change in ownership program by: (1) timely applying the penalty for failure to file the COS required by section 482(a), and (2) removing penalty language from the standard cover letter sent to taxpayers who have filed incomplete PCORs.

Assessors Response 4: The practice of applying the penalty for failure to file the COS has been corrected to 45 days rather than the 90 days used by our department. The penalty language on the standard cover letter for incomplete PCORs has been removed.

Recommendation 5: Send value notices to property owners as required by section 619(a).

Assessors Response 5: The Assessor sends value notices to taxpayers for assessments in which they are required. The value notice for the decline-in-value properties that have been fully or partially restored to factored base year values has not been a issue since I have been Assessor. We have established the procedure within the Megabyte System where a notice will be sent to the taxpayers for these situations when they start to occur.

Recommendation 6: Improve the taxable possessory interest assessment program by: (1) obtaining copies of all lease agreements that create taxable possessory interests, (2) periodically reviewing all taxable possessory interests with stated terms of possession for declines in value, and (3) capitalizing net income to the lesser when valuing taxable possessory interests by the income approach.

Assessors Response 6: The Assessor agrees with this recommendation and will try to get the cooperation of the different Government and Native American agencies that we gather information from. We will strive to keep possessory interest values current and appraisers have been informed to capitalize the net income to the lessor.

Recommendation 7: Issue supplemental assessments for structural leasehold improvements assessed on the unsecured roll.

Assessors Response 7: It is and always has been the directive of the Assessor to issue supplemental assessments for structural leasehold improvements assessed on the unsecured roll. The Assessor will see to it that this directive is enforced.

Recommendation 8: Use the correct present worth factors when valuing taxable possessory interest mining properties.

Assessors Response 8: The Assessor agrees with this recommendation and steps have been taken to train the mining appraiser to use the proper present worth factors.

Recommendation 9: Periodically review manufactured homes for declines in value.

Assessors Response 9: The Assessor ran a P-8 study on all mobile homes in the Imperial County for the 1/1/2010 Lien Date and enrolled P-8 valuations on all mobile homes that qualified. The Assessor will strive to continue the review from year to year.